THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.23708 OF 2005

Dt.8.11.2005

Between:

U.Kishan

… Petitioner

And

The Revenue Divisional Officer,

Kamareddy, Nizamabad District. … Respondent

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner questions of the order of the Revenue Divisional Officer, Kamareddy, Nizamabad District, dated 23.8.2005 in suspending his Fair Price Shop authorization of Tirmanpally Village, Sadasivnagar Mandal, pending enquiry.

The learned counsel for the petitioner submits that there is no power suspending authorization without making enquiry and without giving reasonable opportunity.

Clause 5 of the A.P.State Public Distribution System Control

Order, 2001 deals with the issue of authorization to Fair Price Shops and establishment. Under Clause 5(4) the appointing authority may at any time where at the request of the authorized Fair Price Shop or authorized establishment or *suo motu* after making such enquiry has made to be deemed necessary and for reasons to be recorded in writing add to, amend, vary, suspend or cancel the authorization issued or deemed to be issued to him. All the allotments of authorization of Fair Price Shops are deemed to have been issued prior to the said Control Order. If that be so, the only question that arises for consideration is whether the appointing authority is empowered to suspend the authorization pending enquiry. Under Clause 5(4) of the Control Order after making necessary enquiry the appointing authority is empowered to amend or vary the condition of authorization. The learned counsel for the petitioner submits that no enquiry has been conducted. In the instant case, it is stated that after conducting enquiry under cover of panchanama as per the report submitted by the Mandal Revenue Officer that 48 quintals of A.P rice containing in 96 bags have been replaced from 96 F.C.I bags in a van and in view of violation of condition Nos.4(i) and 4(ii) as well as condition No.7 of authorization, the authorization of the petitioner has been suspended. Whether the suspension of authorization is illegal or unsustainable is a matter to be decided by the appellate authority as admittedly an appeal lies against the said order under Clause 20 of the said Control Order. Therefore, I am of the opinion that it is not proper for this Court to enter into the merits of the impugned order and it is the appellate authority to consider the contentions of the petitioner as to whether there is any need or necessity to suspend the authorization pending enquiry.

The writ petition is accordingly dismissed with liberty to the petitioner to file an appeal within one week from the date of receipt of a copy of this order. If any such appeal is filed, the appellate authority may consider the stay application within two weeks thereafter and also dispose of the appeal after disposal of the stay application in accordance with law after giving reasonable opportunity to the

petitioner. No costs.

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(V.ESWARAIAH, J.)

8.11.2005

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